

110TH CONGRESS  
1ST SESSION

# H. R. 1362

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IN THE SENATE OF THE UNITED STATES

MARCH 15, 2007

Received; read twice and referred to the Committee on Homeland Security and  
Governmental Affairs

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## AN ACT

To reform acquisition practices of the Federal Government.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the  
3 “Accountability in Contracting Act”.

4 (b) TABLE OF CONTENTS.—The table of contents for  
5 this Act is as follows:

Sec. 1. Short title and table of contents.

**TITLE I—IMPROVING THE QUALITY OF CONTRACTS**

Sec. 101. Limitation on length of noncompetitive contracts.

Sec. 102. Minimizing sole-source contracts.

Sec. 103. Maximizing fixed-price procurement contracts.

**TITLE II—INCREASING CONTRACT OVERSIGHT**

Sec. 201. Public disclosure of justification and approval documents for non-  
competitive contracts.

Sec. 202. Disclosure of Government contractor audit findings.

Sec. 203. Study of acquisition workforce.

Sec. 204. Repeal of sunset of training fund.

Sec. 205. Notice to Congress of noncompetitive contracts awarded to foreign-  
owned companies in countries sponsoring terrorism.

Sec. 206. Prohibition on contracts to educational institutions not supporting  
U.S. defense efforts.

**TITLE III—PROMOTING INTEGRITY IN CONTRACTING**

Sec. 301. Additional provisions relating to procurement officials.

Sec. 302. Report to Congress.

6 **TITLE I—IMPROVING THE**  
7 **QUALITY OF CONTRACTS**

8 **SEC. 101. LIMITATION ON LENGTH OF NONCOMPETITIVE**  
9 **CONTRACTS.**

10 (a) REVISION OF FAR.—Not later than one year  
11 after the date of the enactment of this Act, the Federal  
12 Acquisition Regulation shall be revised to restrict the con-  
13 tract period of any contract described in subsection (c)  
14 to the minimum contract period necessary—

1           (1) to meet the urgent and compelling require-  
2           ments of the work to be performed under the con-  
3           tract; and

4           (2) to enter into another contract for the re-  
5           quired goods or services through the use of competi-  
6           tive procedures.

7           (b) CONTRACT PERIOD.—The regulations promul-  
8           gated under subsection (a) shall require the contract pe-  
9           riod to not exceed one year, unless the head of the execu-  
10          tive agency concerned determines that the Government  
11          would be seriously injured by the limitation on the con-  
12          tract period.

13          (c) COVERED CONTRACTS.—This section applies to  
14          any contract in an amount greater than \$1,000,000 en-  
15          tered into by an executive agency using procedures other  
16          than competitive procedures pursuant to the exception  
17          provided in section 303(c)(2) of the Federal Property and  
18          Administrative Services Act of 1949 (41 U.S.C. 253(c)(2))  
19          or section 2304(c)(2) of title 10, United States Code.

20          (d) DEFINITIONS.—In this section:

21                (1) The term “executive agency” has the mean-  
22                ing provided in section 4(1) of the Office of Federal  
23                Procurement Policy Act (41 U.S.C. 403(1)).

24                (2) The term “head of the executive agency”  
25                means the head of an executive agency except that,

1 in the case of the Department of Defense, the term  
2 means—

3 (A) in the case of a military department,  
4 the Secretary of the military department;

5 (B) in the case of a Defense Agency, the  
6 head of the Defense Agency; and

7 (C) in the case of any part of the Depart-  
8 ment of Defense other than a military depart-  
9 ment or Defense Agency, the Under Secretary  
10 of Defense for Acquisition, Technology, and Lo-  
11 gistics.

12 **SEC. 102. MINIMIZING SOLE-SOURCE CONTRACTS.**

13 (a) PLANS REQUIRED.—Subject to subsection (c),  
14 the head of each executive agency covered by title III of  
15 the Federal Property and Administrative Services Act of  
16 1949 (41 U.S.C. 251 et seq.) or, in the case of the Depart-  
17 ment of Defense, the Under Secretary of Defense for Ac-  
18 quisition, Technology, and Logistics, shall develop and im-  
19 plement a plan to minimize, to the maximum extent prac-  
20 ticable, the use of contracts entered into using procedures  
21 other than competitive procedures by the agency or de-  
22 partment concerned. The plan shall contain measurable  
23 goals and shall be completed and submitted to the Com-  
24 mittee on Oversight and Government Reform of the House  
25 of Representatives, the Committee on Homeland Security

1 and Governmental Affairs of the Senate, and the Commit-  
2 tees on Appropriations of the House of Representatives  
3 and the Senate and, in the case of the Department of De-  
4 fense and the Department of Energy, the Committees on  
5 Armed Services of the Senate and the House of Represent-  
6 atives, with a copy provided to the Comptroller General,  
7 not later than 1 year after the date of the enactment of  
8 this Act.

9 (b) COMPTROLLER GENERAL REVIEW.—The Comp-  
10 troller General shall review the plans provided under sub-  
11 section (a) and submit a report to Congress on the plans  
12 not later than 18 months after the date of the enactment  
13 of this Act.

14 (c) REQUIREMENT LIMITED TO CERTAIN AGEN-  
15 CIES.—The requirement of subsection (a) shall apply only  
16 to those agencies that awarded contracts in a total amount  
17 of at least \$1,000,000,000 in the fiscal year preceding the  
18 fiscal year in which the report is submitted.

19 (d) CERTAIN CONTRACTS EXCLUDED.—The fol-  
20 lowing contracts shall not be included in the plans devel-  
21 oped and implemented under subsection (a):

22 (1) Contracts entered into under section 8(a) of  
23 the Small Business Act (15 U.S.C. 637(a)), in  
24 amounts less than the amounts listed in paragraph  
25 (1)(D)(i)(II) of that section.

1           (2) Contracts entered into under section 31 (15  
2       U.S.C. 657a) of such Act, in amounts less than the  
3       amounts listed in subsection (b)(2)(A)(ii) of that  
4       section.

5           (3) Contracts entered into under section 36 of  
6       such Act (15 U.S.C. 657f), in amounts less than the  
7       amounts listed in subsection (a)(2) of that section.

8       **SEC. 103. MAXIMIZING FIXED-PRICE PROCUREMENT CON-**  
9                               **TRACTS.**

10       (a) PLANS REQUIRED.—Subject to subsection (c),  
11       the head of each executive agency covered by title III of  
12       the Federal Property and Administrative Services Act of  
13       1949 (41 U.S.C. 251 et seq.) or, in the case of the Depart-  
14       ment of Defense, the Under Secretary of Defense for Ac-  
15       quisition, Technology, and Logistics, shall develop and im-  
16       plement a plan to maximize, to the fullest extent prac-  
17       ticable, the use of fixed-price type contracts for the pro-  
18       curement of goods and services by the agency or depart-  
19       ment concerned. The plan shall contain measurable goals  
20       and shall be completed and submitted to the Committee  
21       on Oversight and Government Reform of the House of  
22       Representatives, the Committee on Homeland Security  
23       and Governmental Affairs of the Senate, and the Commit-  
24       tees on Appropriations of the House of Representatives  
25       and the Senate and, in the case of the Department of De-

1 fense and the Department of Energy, the Committees on  
2 Armed Services of the Senate and the House of Represent-  
3 atives, with a copy provided to the Comptroller General,  
4 not later than 1 year after the date of the enactment of  
5 this Act.

6 (b) COMPTROLLER GENERAL REVIEW.—The Comp-  
7 troller General shall review the plans provided under sub-  
8 section (a) and submit a report to Congress on the plans  
9 not later than 18 months after the date of the enactment  
10 of this Act.

11 (c) REQUIREMENT LIMITED TO CERTAIN AGEN-  
12 CIES.—The requirement of subsection (a) shall apply only  
13 to those agencies that awarded contracts in a total amount  
14 of at least \$1,000,000,000 in the fiscal year preceding the  
15 fiscal year in which the report is submitted.

## 16 **TITLE II—INCREASING** 17 **CONTRACT OVERSIGHT**

18 **SEC. 201. PUBLIC DISCLOSURE OF JUSTIFICATION AND AP-**  
19 **PROVAL DOCUMENTS FOR NONCOMPETITIVE**  
20 **CONTRACTS.**

21 (a) CIVILIAN AGENCY CONTRACTS.—

22 (1) IN GENERAL.—Section 303 of the Federal  
23 Property and Administrative Services Act of 1949  
24 (41 U.S.C. 253) is amended by adding at the end  
25 the following new subsection:

1 “(j)(1)(A) Except as provided in subparagraph (B),  
 2 in the case of a procurement permitted by subsection (c),  
 3 the head of an executive agency shall make publicly avail-  
 4 able, within 14 days after the award of the contract, the  
 5 documents containing the justification and approval re-  
 6 quired by subsection (f)(1) with respect to the procure-  
 7 ment.

8 “(B) In the case of a procurement permitted by sub-  
 9 section (c)(2), subparagraph (A) shall be applied by sub-  
 10 stituting ‘30 days’ for ‘14 days’.

11 “(2) The documents shall be made available on the  
 12 website of the agency and through the Federal Procure-  
 13 ment Data System.

14 “(3) This subsection does not require the public avail-  
 15 ability of information that is exempt from public disclosure  
 16 under section 552(b) of title 5, United States Code.”.

17 (2) CONFORMING AMENDMENT.—Section 303(f)  
 18 of such Act is amended—

19 (A) by striking paragraph (4); and

20 (B) by redesignating paragraph (5) as  
 21 paragraph (4).

22 (b) DEFENSE AGENCY CONTRACTS.—

23 (1) IN GENERAL.—Section 2304 of title 10,  
 24 United States Code, is amended by adding at the  
 25 end the following new subsection:



1 “(l)(1)(A) Except as provided in subparagraph (B),  
 2 in the case of a procurement permitted by subsection (c),  
 3 the head of an agency shall make publicly available, within  
 4 14 days after the award of the contract, the documents  
 5 containing the justification and approval required by sub-  
 6 section (f)(1) with respect to the procurement.

7 “(B) In the case of a procurement permitted by sub-  
 8 section (c)(2), subparagraph (A) shall be applied by sub-  
 9 stituting ‘30 days’ for ‘14 days’.

10 “(2) The documents shall be made available on the  
 11 website of the agency and through the Federal Procure-  
 12 ment Data System.

13 “(3) This subsection does not require the public avail-  
 14 ability of information that is exempt from public disclosure  
 15 under section 552(b) of title 5.”.

16 (2) CONFORMING AMENDMENT.—Section  
 17 2304(f) of such title is amended—

18 (A) by striking paragraph (4); and

19 (B) by redesignating paragraphs (5) and  
 20 (6) as paragraphs (4) and (5), respectively.

21 **SEC. 202. DISCLOSURE OF GOVERNMENT CONTRACTOR**  
 22 **AUDIT FINDINGS.**

23 (a) QUARTERLY REPORT TO CONGRESS.—

24 (1) The head of each Federal agency or depart-  
 25 ment or, in the case of the Department of Defense,

1 the Under Secretary of Defense for Acquisition,  
2 Technology, and Logistics, shall submit to the chair-  
3 man and ranking member of each committee speci-  
4 fied in paragraph (2) on a quarterly basis a report  
5 that includes the following:

6 (A) A list of completed audits performed  
7 by such agency or department issued during the  
8 applicable quarter that describe contractor costs  
9 in excess of \$10,000,000 that have been identi-  
10 fied as unjustified, unsupported, questioned, or  
11 unreasonable under any contract, task or deliv-  
12 ery order, or subcontract.

13 (B) The specific amounts of costs identi-  
14 fied as unjustified, unsupported, questioned, or  
15 unreasonable and the percentage of their total  
16 value of the contract, task or delivery order, or  
17 subcontract.

18 (C) A list of completed audits performed  
19 by such agency or department issued during the  
20 applicable quarter that identify material defi-  
21 ciencies in the performance of any contractor or  
22 in any business system of any contractor under  
23 any contract, task or delivery order, or sub-  
24 contract.

1           (2) The report described in paragraph (1) shall  
2       be submitted to—

3           (A) the Committee on Oversight and Gov-  
4       ernment Reform of the House of Representa-  
5       tives;

6           (B) the Committee on Homeland Security  
7       and Governmental Affairs of the Senate;

8           (C) the Committees on Appropriations of  
9       the House of Representatives and the Senate;

10          (D) in the case of reports from the Depart-  
11       ment of Defense or the Department of Energy,  
12       the Committees on Armed Services of the Sen-  
13       ate and the House of Representatives; and

14          (E) the committees of primary jurisdiction  
15       over the agency or department submitting the  
16       report.

17          (3) Paragraph (1) shall not apply to an agency  
18       or department with respect to a calendar quarter if  
19       no audits described in paragraph (1) were issued  
20       during that quarter.

21       (b) SUBMISSION OF INDIVIDUAL AUDITS.—

22          (1) The head of each Federal agency or depart-  
23       ment shall provide, within 14 days after a request in  
24       writing by the chairman or ranking member of any  
25       committee listed in paragraph (2), a full and

1       unredacted copy of any audit described in subsection  
2       (a)(1). Such copy shall include an identification of  
3       information in the audit exempt from public disclosure  
4       under section 552(b) of title 5, United States  
5       Code.

6               (2) The committees listed in this paragraph are  
7       the following:

8               (A) The Committee on Oversight and Government Reform of the House of Representatives.  
9  
10              tives.

11              (B) The Committee on Homeland Security  
12              and Governmental Affairs of the Senate.

13              (C) The Committees on Appropriations of  
14              the House of Representatives and the Senate.

15              (D) In the case of the Department of Defense or the Department of Energy, the Committees on Armed Services of the Senate and  
16  
17              House of Representatives.  
18

19              (E) The committees of primary jurisdiction  
20              over the agency or department to which the request is made.  
21

22   **SEC. 203. STUDY OF ACQUISITION WORKFORCE.**

23       (a) REQUIREMENT FOR STUDY.—The Administrator  
24   for Federal Procurement Policy shall conduct a study of  
25   the composition, scope, and functions of the Government-

1 wide acquisition workforce and develop a comprehensive  
2 definition of, and method of measuring the size of, such  
3 workforce.

4 (b) REPORT.—Not later than 1 year after the date  
5 of the enactment of this Act, the Administrator shall sub-  
6 mit to the relevant congressional committees a report on  
7 the results of the study required by subsection (a), with  
8 such findings and recommendations as the Administrator  
9 determines appropriate.

10 **SEC. 204. REPEAL OF SUNSET OF TRAINING FUND.**

11 Subparagraph (H) of section 37(h)(3) of the Office  
12 of Federal Procurement Policy Act (41 U.S.C. 433(h)(3))  
13 is repealed.

14 **SEC. 205. NOTICE TO CONGRESS OF NONCOMPETITIVE**  
15 **CONTRACTS AWARDED TO FOREIGN-OWNED**  
16 **COMPANIES IN COUNTRIES SPONSORING**  
17 **TERRORISM.**

18 (a) NOTICE TO CONGRESS REQUIRED.—If a contract  
19 is expected to be awarded by a department or agency of  
20 the Federal Government without the use of competitive  
21 procedures to a foreign-owned company that is based or  
22 has majority operations in a country described in sub-  
23 section (b), the department or agency shall notify the ap-  
24 propriate congressional committees at least 30 days before  
25 awarding the contract, for purposes of providing Congress

1 time to review the proposed contract and provide com-  
2 ments to the department or agency.

3 (b) FOREIGN COUNTRIES DESCRIBED.—A country  
4 described in this subsection is a country the government  
5 of which the Secretary of State has determined, for pur-  
6 poses of section 6(j) of Export Administration Act of  
7 1979, section 620A of the Foreign Assistance Act of 1961,  
8 section 40 of the Arms Export Control Act, or any other  
9 provision of law, is a government that has repeatedly pro-  
10 vided support for acts of international terrorism.

11 **SEC. 206. PROHIBITION ON CONTRACTS TO EDUCATIONAL**  
12 **INSTITUTIONS NOT SUPPORTING U.S. DE-**  
13 **FENSE EFFORTS.**

14 An executive agency may not award a contract to an  
15 institution of higher education (including any subelement  
16 of such institution) if that institution (or any subelement  
17 of that institution) has a policy or practice (regardless of  
18 when implemented) that either prohibits, or in effect pre-  
19 vents, the Secretary of a military department or the Sec-  
20 retary of Homeland Security from gaining access to cam-  
21 puses of the institution, or access to students (who are  
22 17 years of age or older) on campuses, for purposes of  
23 military recruiting, in a manner that is at least equal in  
24 quality and scope to the access to campuses and to stu-  
25 dents that is provided to any other employer. For purposes

1 of this section, the term “institution of higher education”  
 2 has the meaning provided in section 101 of the Higher  
 3 Education Act of 1965 (20 U.S.C. 1001). The prohibition  
 4 in this section shall not apply to an institution of higher  
 5 education (or any subelement of that institution) if the  
 6 Secretary of Defense determines that the institution of  
 7 higher education involved has a longstanding policy of  
 8 pacifism based on historical religious affiliation.

## 9 **TITLE III—PROMOTING** 10 **INTEGRITY IN CONTRACTING**

### 11 **SEC. 301. ADDITIONAL PROVISIONS RELATING TO PRO-** 12 **CUREMENT OFFICIALS.**

13 (a) ELIMINATION OF LOOPHOLES THAT ALLOW  
 14 FORMER FEDERAL OFFICIALS TO ACCEPT COMPENSA-  
 15 TION FROM CONTRACTORS OR RELATED ENTITIES.—Sec-  
 16 tion 27(d) of the Office of Federal Procurement Policy  
 17 Act (41 U.S.C. 423(d)) is amended—

18 (1) in paragraph (1)—

19 (A) by striking “or consultant” and insert-  
 20 ing “consultant, lawyer, or lobbyist”; and

21 (B) in subparagraph (C), by striking  
 22 “Federal agency—” and inserting “Federal  
 23 agency or participated personally and substan-  
 24 tially at a senior personnel level in—”; and

1           (2) by amending paragraph (2) to read as fol-  
2       lows:

3       “(2) Paragraph (1) shall not prohibit a former offi-  
4       cial of a Federal agency from accepting compensation  
5       from any division or affiliate of a contractor that does not  
6       produce the same or similar products or services as the  
7       entity of the contractor that is responsible for the contract  
8       referred to in subparagraph (A), (B), or (C) of such para-  
9       graph if the agency’s designated ethics officer determines  
10      that the former official’s acceptance of compensation  
11      would not damage public confidence in the integrity of the  
12      procurement process.”.

13       (b) REQUIREMENT FOR FEDERAL PROCUREMENT  
14      OFFICERS TO DISCLOSE JOB OFFERS MADE ON BEHALF  
15      OF RELATIVES.—Section 27(c)(1) of such Act (41 U.S.C.  
16      423(c)(1)) is amended by inserting after “that official”  
17      the following: “or for a relative of that official (as defined  
18      in section 3110 of title 5, United States Code)”.

19       (c) REQUIREMENT ON AWARD OF GOVERNMENT  
20      CONTRACTS TO FORMER EMPLOYERS.—Section 27 of  
21      such Act (41 U.S.C. 423) is amended by adding at the  
22      end the following new subsection:

23       “(i) PROHIBITION ON INVOLVEMENT BY CERTAIN  
24      FORMER CONTRACTOR EMPLOYEES IN PROCURE-  
25      MENTS.—An employee of the Federal Government who is



1 a former employee of a contractor with the Federal Gov-  
2 ernment shall not be personally and substantially involved  
3 with any award of a contract to the employee's former em-  
4 ployer, or in the administration of such contract at a sen-  
5 ior personnel level, for the one-year period beginning on  
6 the date on which the employee leaves the employment of  
7 the contractor unless the employee has received a waiver  
8 from the agency's designated ethics officer. In determining  
9 whether to issue a waiver, the designated ethics officer  
10 shall take into account the agency's need for the involve-  
11 ment of the employee and the impact a waiver would have  
12 on public confidence in the integrity of the procurement  
13 process.”.

14 (d) REGULATIONS.—Section 27 of such Act (41  
15 U.S.C. 423) is further amended by adding at the end the  
16 following new subsection:

17 “(j) REGULATIONS.—The Administrator, in consulta-  
18 tion with the Director of the Office of Government Ethics,  
19 shall—

20 “(1) promulgate regulations to carry out and  
21 ensure the enforcement of this section; and

22 “(2) monitor and investigate individual and  
23 agency compliance with this section.”.

1 (e) EFFECTIVE DATE.—The amendments made by  
2 this section shall take effect on the date of the enactment  
3 of this Act.

4 **SEC. 302. REPORT TO CONGRESS.**

5 (a) REPORT.—Not later than 180 days after the date  
6 of the enactment of this Act, the Director of the Office  
7 of Government Ethics shall submit a report to Congress  
8 that contains the Director’s recommendations on requiring  
9 Government contractors that advise one or more Federal  
10 agencies on procurement policy, and requiring federally  
11 funded research and development centers, to comply with  
12 restrictions relating to personal financial interests, such  
13 as those that apply to Federal employees.

14 (b) DEFINITION.—In this section—

15 (1) The term “Government contractor” means  
16 any person (other than a Federal agency) with  
17 which a Federal agency has entered into a contract  
18 to acquire goods or services.

19 (2) The term “Federal agency” means—

20 (A) any executive department or inde-  
21 pendent establishment in the executive branch  
22 of the Government, including any wholly owned  
23 Government corporation; and

24 (B) any establishment in the legislative or  
25 judicial branch of the Government (except the

1 Senate, the House of Representatives, and the  
2 Architect of the Capitol and any activities  
3 under the Architect's direction).

4 (3) The term "federally funded research and  
5 development center" means a federally funded re-  
6 search and development center as identified by the  
7 National Science Foundation in accordance with the  
8 Federal Acquisition Regulation.

Passed the House of Representatives March 15,  
2007.

Attest:

KAREN L. HAAS,

*Clerk.*